

Savannah, Georgia

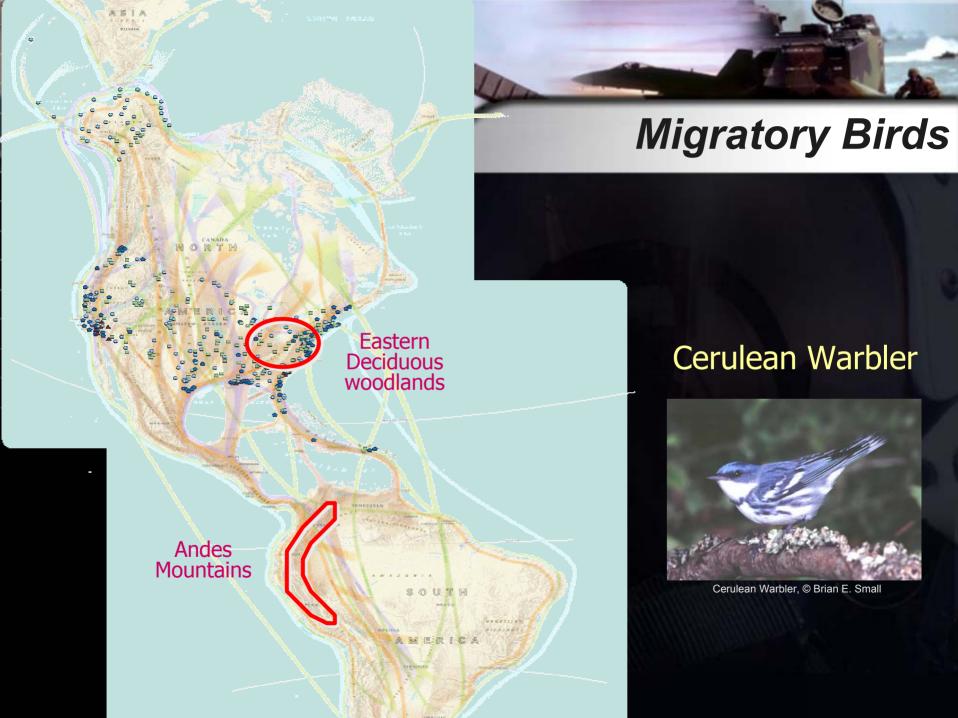


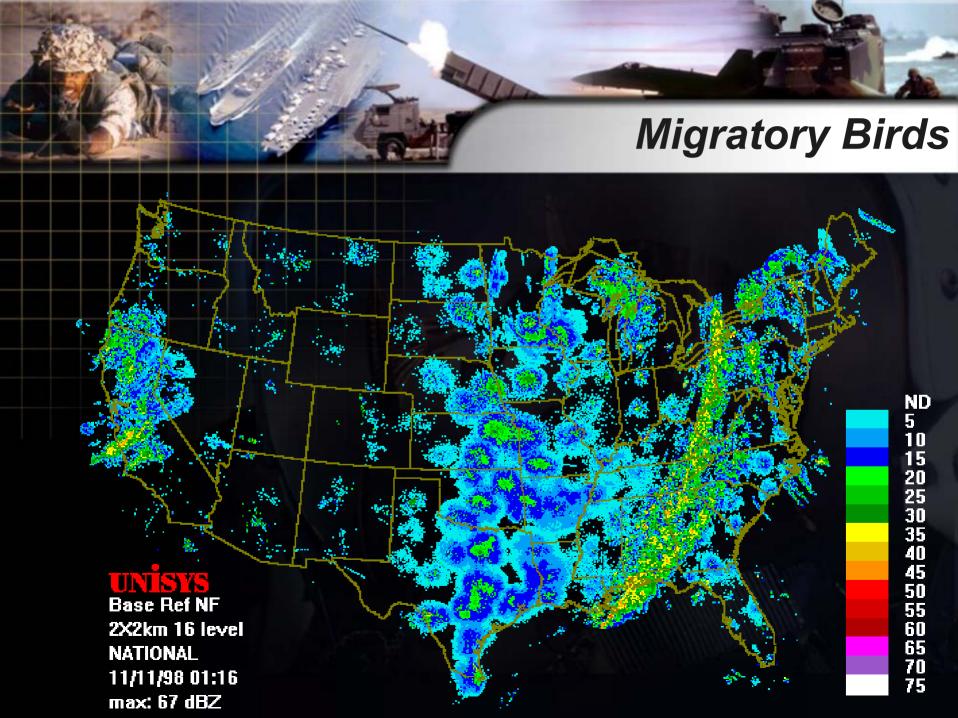
Mr. Tom Egeland
Office of the Deputy Assistant
Secretary of the Navy
(Environment)
22-27 August 2004

Public reporting burden for the collection of in maintaining the data needed, and completing a including suggestions for reducing this burden, VA 22202-4302. Respondents should be aware does not display a currently valid OMB contro	nd reviewing the collect to Washington Headqu that notwithstanding ar	ion of information. Send comments arters Services, Directorate for Information	regarding this burden estimate mation Operations and Reports	or any other aspect of the property of the contract of the con	his collection of information, Highway, Suite 1204, Arlington	
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Report Documentation Page

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Bird Watching* +155.2

Hiking +93.0

Backpacking +72.7

Fishing -3.0

Hunting -11.4

*Up from 21.2 to 54.1 million participants

Outdoor Recreation

Percent change, 1982-1995

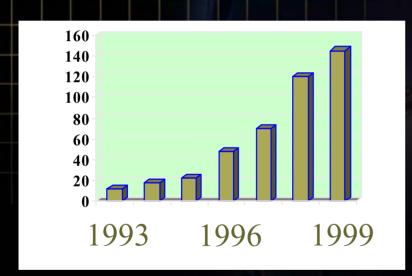
National Survey on Recreation and the Environment
1997, Univ. of GA / USDA Forest Service





First Red-footed Falcon in *Western Hemisphere*, Martha's Vineyard, MA August 2004

Migratory Birds



Number of Birding Festivals

Birding Economics

- 63 million people feed birds at home
 - \$2.5 billion spent on seed, feeders, etc.
- Who traveled to watch birds?
 - 25 million people
 - \$5.2 billion spent
 - \$516 million in Federal Income taxes generated (1991 figures)



- Migratory Bird Treaty Act (MBTA), 16 USC 703
- Originally passed in 1918
 - protects migratory birds
 - basis is multi-national treaty
 - Canada (GB), Mexico, Japan, Russia



Cactus Wren, © Chris Eberly

- Strict criminal liability statute
 - USFWS has exclusive authority



- **MBTA** prohibitions
 - "unlawful ...to pursue, hunt, take, capture, or kill any migratory bird except as permitted ..."
 - FWS can issue permits to allow "takes"
- Extent of application
 - Several challenges in recent years
 - DOJ opined that MBTA does not apply to Federal agencies
 - FWS stopped issuing permits for takes





- Humane Society v. Glickman
 - Federal agencies are subject to the take prohibitions of the MBTA
 - FWS Director's order: Federal agencies are subject to MBTA requirements

CBD v. Pirie

Navy activities at FDM resulting in take of migratory birds without a permit violated the MBTA



Canyon Towhee, © Chris Eberly



- FY03 National Defense Authorization Act
- Sec 315 of the NDAA
 - directs SOI, via rulemaking, to exempt military readiness activities from the take prohibitions of the MBTA



- requires DoD, in consultation with DOI, to identify measures to minimize, mitigate and monitor bird takes from readiness activities
- interim exemption provided until rule is finalized

Migratory Birds

Military Readiness Activities

Readiness activities defined



Horned Lark, © Chris Eberly

- training & operations that relate to combat; and adequate & realistic testing and training of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use
- does not include routine operation of installation operating support functions



Migratory Bird Rule



Northern Bobwhite, © Tom Egeland

- efforts to promulgate a rule started Mar 03
- initial DOI drafts established "conditions" upon which DOI would exempt readiness activities
- DoD's position: take exemption is unconditional
- proposed rule reflects compromise language



Migratory Bird Rule

SOI can suspend or withdraw authorization, if DoD:



American Redstart, © Steve Maslowski/FW

- * is in violation of a migratory bird treaty
 (SOI must seek the views of the SECDEF and SOS)
- has not implemented conservation measures (SECDEF given an opportunity to discuss with SOI)



Migratory Bird Rule

Status



Common Nighthawk, © Chris Eberly

- Federal Register on 2 June 2004
- 60-day comment period ended 2 August 2004
- \$573 comments received (4 +; 569 -)
- Awaiting USFWS review of comments



Executive Order 13186

"Responsibilities Of Federal Agencies
To Protect Migratory Birds"



Green Jay (USFWS)

- signed by the President on 10 Jan 01
- enhance coordination & communication
- incorporate migratory bird conservation into agency activities
- migratory birds MOU with DOI



- Executive Order 13186
 - **DoD's Migratory Bird MOU**



Burrowing Owl (USFWS)

- activities other than readiness activities
- DOI will issue a Special Purpose Permit to cover activities identified in the agency MOUs
- still under development

Migratory Birds

- Species of Concern
 - Migratory Bird Rule, MOU



Western Tanager, © Chris Eberly

- T&E list
- Birds of Conservation Concern (USFWS 2002)
- Bird initiatives (PIF, Waterbirds, Shorebirds, Waterfowl)
- Game Birds Below Desired Condition



- DoD PIF working with USFWS Div. of Mig. Birds
- Species of Concern matrix via www.dodpif.org